

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

Deborah S. Hunt
Clerk

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Filed: April 10, 2015

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Ms. Michelle Amy Ochs Windmueller
U.S. Postal Service
Legal Strategy Section, Appellate Division
475 L'Enfant Plaza, S.W.
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Re: Case No. 15-1274, *NLRB v. USPS*
Originating Case No. : 07-CA-107223 : 07-CA-108290 : 07-CA-123087

Dear Counsel,

The Court issued the enclosed Judgment today in this case.

Sincerely yours,

s/Linda M. Niesen
Case Manager
Direct Dial No. 513-564-7038

cc: Mr. Dallas Kingsbury
Ms. Terry A. Morgan

Enclosure

No mandate to issue

No. 15-1274

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD,)
)
 Petitioner,)
)
 v.)
)
 UNITED STATES POSTAL SERVICE,)
)
 Respondent.)

FILED
Apr 10, 2015
DEBORAH S. HUNT, Clerk

J U D G M E N T

Before: GIBBONS, SUTTON, and KETHLEDGE, Circuit Judges.

The National Labor Relations Board (the “Board”) applies for summary enforcement by consent of its February 27, 2015 Decision and Order in Case Nos. 07-CA-107223, 07-CA-108290, and 07-CA-123087 against Respondent, United States Postal Service (“USPS”), its officers, agents, successors, and assigns. USPS expressly consented to the entry of a judgment in a stipulation entered before the Board, and it has filed an answer with this court consenting to the entry of a judgment enforcing the Decision and Order of the Board. Upon review of the materials submitted,

It is ORDERED and ADJUDGED that the Board’s Order in Case Nos. 07-CA-107223, 07-CA-108290, and 07-CA-123087 is hereby ENFORCED, and USPS, its officers, agents, successors, and assigns, shall abide by and perform the directions of the Board set forth therein. (See attached Order and Appendix).

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

UNITED STATES POSTAL SERVICE

and

BRANCH 3126, NATIONAL ASSOCIATION
OF LETTER CARRIERS (NALC), AFL-CIO

Cases 07-CA-107223
07-CA-108290
07-CA-123087

DECISION AND ORDER

Statement of the Cases

On August 8, 2014, the United States Postal Service (the Respondent), Branch 3126, National Association of Letter Carriers (NALC), AFL-CIO (the Charging Union), and the General Counsel of the National Labor Relations Board entered into a Formal Settlement Stipulation, subject to the Board's approval, providing for the entry of a consent order by the Board and a consent judgment by any appropriate United States Court of Appeals. The parties waived all further and other proceedings before the Board to which they may be entitled under the National Labor Relations Act and the Board's Rules and Regulations, and the Respondent waived its right to contest the entry of a consent judgment or to receive further notice of the application therefor.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Formal Settlement Stipulation is approved and made a part of the record, and the proceeding is transferred to and continued before the Board in Washington, D.C., for the entry of a Decision and Order pursuant to the provisions of the Formal Settlement Stipulation.¹

¹ Members Hirozawa and McFerran note that the remedy to which the parties have agreed differs in some respects from previous broad orders that the Board has issued against the Respondent in cases alleging that the Respondent has violated Sec. 8(a)(5) of the Act by failing and refusing to provide relevant information. See, e.g., *United States Postal Service*, 345 NLRB 426 (2005), enfd. 486 F.3d 683 (10th Cir. 2007); *United States Postal Service*, 28-CA-017383 et al., unpublished order issued November 4, 2002, enfd. Case 02-9587 (10th Cir. 2003). These broad orders, as enforced by the United States Courts of Appeals, remain in effect, and the Board's approval of this stipulation does not modify these orders in any respect.

Member Johnson would not approve the part of the order requiring the Respondent to cease and desist from failing to bargain with "any other labor organization" because that asserted violation was not alleged as part of this case.

Based on the Formal Settlement Stipulation and the entire record, the Board makes the following

Findings of Fact

1. The Respondent's business

The Respondent provides postal services for the United States and operates various facilities throughout the United States in performing that function, including facilities located at 40100 Grand River, Novi, Michigan (the Novi facility) and 1401 Fort Street, Detroit, Michigan (the Detroit District facility).

The Board has jurisdiction over the Respondent and this matter by virtue of Section 1209 of the Postal Reorganization Act (39 U.S.C. § 101 et seq.).

2. The labor organization involved

The National Association of Letter Carriers (NALC), AFL-CIO (the National Union), and the Charging Union are labor organizations within the meaning of Section 2(5) of the Act.

3. The appropriate unit

The following employees of the Respondent (the unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time city letter carriers employed by Respondent at various facilities throughout the United States, but excluding professional employees, employees engaged in personnel work in other than a purely non-confidential clerical capacity, postal inspection service employees, employees in the supplemental work force, rural letter carriers, mail handlers, maintenance employees, special delivery messengers, motor vehicle employees, postal clerks, managerial employees, supervisory personnel, and security guards as defined in Public Law 91-375, 1201(2).

Since about 1990 and at all material times, the Respondent has recognized the National Union as the exclusive collective-bargaining representative of the unit. This recognition has been embodied in successive collective-bargaining agreements, the most recent of which is effective from January 10, 2013, through May 20, 2016.

At all material times, the National Union has been the exclusive collective-bargaining representative of the unit based on Section 9(a) of the Act.

At all material times, the Charging Union has been the designated servicing agent of the National Union for the employees in the unit at the Respondent's Novi and Detroit District facilities.

ORDER

Based on the above findings of fact, the Formal Settlement Stipulation, and the entire record, and pursuant to Section 10(c) of the National Labor Relations Act, the National Labor Relations Board orders that:

The Respondent, United States Postal Service, Birmingham, Brighton, Clawson, Farmington Hills, Hazel Park, Royal Oak, Troy, Novi, South Lyon, and Walled Lake, Michigan, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Unreasonably delaying or failing and refusing to furnish the Charging Union with relevant requested information, or in any like or related manner interfering with, restraining, or coercing its employees in the exercise of rights guaranteed in Section 7 of the Act.

(b) Unreasonably delaying or failing and refusing to furnish the Charging Union with relevant requested information, or in any like or related manner refusing to bargain collectively and in good faith with the Charging Union as the servicing agent of the exclusive collective-bargaining representative for employees in the unit, or any other labor organization, at its Birmingham, Brighton, Clawson, Farmington Hills, Hazel Park, Royal Oak, Troy, Novi, South Lyon, and Walled Lake, Michigan facilities.

2. Take the following affirmative action.

(a) Upon request, bargain collectively and in good faith with the Charging Union as the servicing agent of the exclusive collective-bargaining representative for employees in the unit employed at the Respondent's Birmingham, Brighton, Clawson, Farmington Hills, Hazel Park, Royal Oak, Troy, Novi, South Lyon, and Walled Lake, Michigan facilities.

(b) Within 14 days of service by Region 7, post copies of the attached notice marked Appendix A at the following Michigan facilities:

Birmingham	1221 Bowers St., Birmingham
Brighton	100 Charles H. Orndorf Dr., Brighton
Clawson	345 N. Main St., Clawson
Farmington Hills ²	32455 W. 12 Mile Rd., Farmington Hills
Hazel Park	23200 John R. Rd., Hazel Park

² Covers Farmington Hills, MI and Farmington, MI.

Royal Oak³
 Madison Heights Annex
 Novi
 South Lyon
 Troy
 Walled Lake⁴

200 W. Second St., Royal Oak
 2351 Bellingham Dr., Troy
 24875 Novi Rd., Novi
 111 S. Lafayette St., South Lyon
 2844 Livernois Rd., Troy
 995 N. Pontiac Trl., Walled Lake

Copies of the notice, on forms provided by Region 7, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. The Respondent will take reasonable steps to ensure that the notices are not altered, defaced, or covered by any other material.

(c) Within 21 days after service by Region 7, file with the Regional Director for Region 7 a sworn certification by a responsible Respondent official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C., February 27, 2015

Kent Y. Hirozawa, Member

Harry I. Johnson, III, Member

Lauren McFerran, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

³ Covers Royal Oak, MI, Berkley, MI, Pleasant Ridge, MI, and Huntington Woods, MI.

⁴ Covers Walled Lake, MI and Commerce Twp., MI.

APPENDIX A

**NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government**

**PURSUANT TO A STIPULATION PROVIDING FOR A BOARD ORDER
AND A CONSENT JUDGMENT OF ANY APPROPRIATE
UNITED STATES COURT OF APPEALS**

FEDERAL LAW GIVES YOU THE RIGHT TO:

- Form, join, or assist a union;
- Choose a representative to bargain with us on your behalf;
- Act together with other employees for your benefit and protection;
- Choose not to engage in any of these protected activities.

WE WILL NOT do anything to prevent you from exercising the above rights.

WE WILL NOT refuse to bargain collectively and in good faith with Branch 3126, National Association of Letter Carriers (NALC), AFL-CIO (the Union) as the servicing representative of the exclusive collective-bargaining representative of our employees in the following appropriate unit at our Birmingham, Brighton, Clawson, Farmington Hills, Hazel Park, Royal Oak, Troy, Novi, South Lyon, and Walled Lake, Michigan facilities:

All full-time and regular part-time city letter carriers employed by Respondent at various facilities throughout the United States, but excluding professional employees, employees engaged in personnel work in other than a purely non-confidential clerical capacity, postal inspection service employees, employees in the supplemental work force, rural letter carriers, mail handlers, maintenance employees, special delivery messengers, motor vehicle employees, postal clerks, managerial employees, supervisory personnel, and security guards as defined in Public Law 91-375, 1201(2).

WE WILL NOT unreasonably delay providing necessary and relevant information requested by the Union to perform its responsibilities as the servicing representative of the exclusive collective-bargaining representative of our employees in the unit or any other labor organization at our Birmingham, Brighton, Clawson, Farmington Hills, Hazel Park, Royal Oak, Troy, Novi, South Lyon, and Walled Lake, Michigan facilities.

WE WILL NOT in any like or related manner interfere with your rights under Section 7 of the Act.

WE WILL NOT in any like or related manner fail and refuse to bargain collectively and in good faith with the Union as the servicing representative of the exclusive collective-bargaining representative of our employees in the unit at our Birmingham, Brighton, Clawson, Farmington Hills, Hazel Park, Royal Oak, Troy, Novi, South Lyon, and Walled Lake, Michigan facilities.

WE WILL, upon request, bargain collectively and in good faith with the Union as the servicing representative of the exclusive collective-bargaining representative of our employees in the unit at our Birmingham, Brighton, Clawson, Farmington Hills, Hazel Park, Royal Oak, Troy, Novi, South Lyon, and Walled Lake, Michigan facilities.

UNITED STATES POSTAL SERVICE

The Board's decision can be found at www.nlrb.gov/case/07-CA-107223 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1099 14th Street, N.W., Washington, D.C. 20570, or by calling (202) 273-1940.

